

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

60157

FILE: B-184962

DATE: November 14, 1975

MATTER OF: Western Mass. Electric Company

97747

DIGEST:

Government may pay late payment charges on overdue accounts where terms of electric utility company's applicable published rate schedule so provides.

The disbursing officer for the New England Division, Corps of Engineers, Department of the Army, has requested an advance decision as to whether he may properly certify a voucher to pay penalty charges for late payment of utility bills.

The utility service was procured from the Western Mass. Electric Company (Western) pursuant to § 5-201, Armed Services Procurement Regulation Supplement No. 5 - Procurement of Utility Services, without a formal contract. Western refused to enter into a written agreement which would not have incorporated the company's late payment charge. Western's refusal was based upon the contention that its published rate schedules serve as the contract with its customers, and its published rate schedules provide that interest is charged at the rate of 1-1/2 percent per month on the unpaid balance if the bill is not paid within 28 days. In view of Western's refusal to execute a formal agreement, electric service was procured on the basis of Western's applicable published rate schedule.

It is well-settled that the payment of interest by the Government on its unpaid accounts may not be made except where interest is stipulated by contract or is provided by the laws of the United States. 45 Comp. Gen. 169 (1965); 51 *id.* 251 (1971). However, the Government may be bound to pay an interest charge where the terms of the contract so provide. See Denton Welding Supply Company, B-183047, February 27, 1975, 75-1 CPD 119; 51 Comp. Gen. 251, *supra*. As stated in our decision of B-173725, September 16, 1971:

"We must conclude under these facts that since the Government accepted this utility service with the understanding that its obligation for payment would

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be governed by the published rate schedule, it is also bound by the late payment clause contained within that schedule."

Therefore, the voucher representing the late payment charge of \$356.24 may be certified for payment.



Acting Comptroller General
of the United States